



## INTRODUCTION

The big news in Raleigh last week was the state budget. The week began with a bit of negotiating and a lot of posturing by legislative leaders and Governor Cooper. By the week's end, the General Assembly had sent its budget to the Governor, and he had vetoed it, calling it an "astonishing failure of common sense and common decency."

As expected, the major hang up with the budget is that it does not include Medicaid expansion, something Governor Cooper has made a priority. Republican leaders did include language in the budget encouraging a special session to discuss Medicaid and access to health care. House leaders have revived discussion about a vote for Carolina Cares, Rep. Donny Lambeth's Medicaid expansion bill that included work requirements. But Senate leadership has made it clear there are not the votes in that chamber for any kind of Medicaid expansion.

With the state's fiscal year having ended on Sunday, there are a lot of unanswered questions about the budget's next steps. The House is scheduled to take the week of July 1 off for the Independence Day holiday, so a vote to over-ride Cooper's veto would have to wait until July 8. Assuming the over-ride votes fail, everyone will likely be back at the drawing board, or the negotiating table. However, North Carolina's government won't grind to a halt. Unlike the federal budget, North Carolina will automatically continue to operate based on last year's budget levels.

In non-budget news, the U.S. Supreme Court ruled last week that partisan gerrymandering is beyond the authority of federal courts, placing responsibility for challenging the practice with Congress or state legislatures. That means that North Carolina won't have to draw new congressional districts for the 2020 elections. A lower court had previously ruled that North Carolina's Republican-led state legislature violated the U.S. Constitution when it drew the congressional districts to the state's 13 seats in the U.S. House of Representatives, by increasing the power of Republicans.

The issue isn't closed yet, though. There is still a pending state court case on the issue, which challenges whether the maps violate the state constitution. That case is scheduled to be heard July 15<sup>th</sup>.



## NORTH CAROLINA COLLEGE OF EMERGENCY PHYSICIANS



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## BILLS OF INTEREST

HOUSE JOINT RESOLUTION 1019, Confirm Floyd McKissick/Utilities Commission, would confirm the appointment of Floyd B. McKissick, Jr., of Durham County to the North Carolina Utilities Commission for a new term beginning July 1, 2019, and expiring June 30, 2025. Sen. McKissick is a long-term member of the Legislature. **Introduced and approved by the House Rules Committee, and placed on the House calendar for July 8, 2019.**

SENATE BILL 683, Combat Absentee Ballot Fraud, would make a variety of changes to the laws governing mail-in absentee ballots, increase and add penalties for criminal violations, and restore the last Saturday of early one-stop voting. The bill would direct the State Board, with respect to each early "one-stop" absentee ballot voted, to approve an official register in which the county board of elections in each county would record the following information: (1) name of voter for whom application and ballots are being requested; (2) number of assigned voter's application when issued; (3) the precinct in which the voter is registered; (4) the date the voter voted early "one-stop"; (5) the voter's party affiliation; and (6) whatever additional information and official action may be required. The official register would be confidential and not a public record until the opening of the voting place at which time the official register would constitute a public record. Any copies of any photographic identification associated with the request for absentee ballots, or the returned application and ballots, would not be a public record. The bill was further amended in the Senate Redistricting and Elections Committee, including to: (1) require the State Board of Elections or county board of elections to inform the voter of the status of that voter's request for mail-in absentee ballots upon inquiry by the voter or the voter's near relative or verifiable legal guardian; and (2) make it a Class F felony to commit, attempt to commit, or conspire to commit a specified crimes with the intent to unlawfully influence or interfere with a primary or election, or to otherwise unlawfully gain. **Introduced by Senators Daniel, McKissick, and Hise and, as amended, was approved the Senate Redistricting and Elections Committee. The bill is scheduled to be heard by the full Senate on July 8<sup>th</sup>.**

## BILL UPDATES

HOUSE BILL 106, Inmate Health Care and 340B Program, was heard in the Senate Health Care Committee, where a committee substitute was adopted. The new version would:

- **require the report on the feasibility study of telehealth services to be made by August 1, 2019, instead of July 1, 2019;**
- make the entire statute concerning Medicaid services for inmates effective October 1, 2019; and
- require the Department of Public Safety (DPS) to establish and implement a partnership with the Department of Health and Human Services (DHHS) in order for DPS to be eligible to operate as a 340B covered entity (a federal government program that requires drug manufacturers to provide outpatient drugs to eligible health care organizations and covered entities at significantly reduced prices).

**The bill as amended was approved by the Senate Health Care Committee and the Senate Rules Committee and has been sent to the House to consider the changes made by the Senate.**

HOUSE BILL 126, Amend Certificate of Need Laws, was heard in the Senate Health Care Committee, where the original contents of the bill were deleted and a committee substitute was adopted. The new version would try again to make changes to the Certificate of Need Law as follows:

- change definitions in the Certificate of Need statute to relax them;
- prohibit the Department of Health and Human Services (DHHS) from including policies or need determinations that limit the number of operating rooms in gastrointestinal endoscopy rooms in developing a State Medical Facilities Plan;
- eliminate requirements related to certificates of need and review for ambulatory surgical facilities, psychiatric facilities, and intermediate care facilities for the mentally retarded;
- exempt from certificate of need review the development, acquisition, construction, expansion, or replacement of a health service facility or health service that obtained certificate of need approval prior to October 1, 2019, as: a kidney dialysis disease treatment facility; a chemical dependency treatment facility; an intermediate care for individuals with intellectual disabilities; psychiatric facility; or any other licensable facility, as defined; and
- exempt from certificate of need review the establishment of a home health agency by a licensed continuing care retirement community to provide home health care services to one or more residents of the retirement community who have entered into a contract with the retirement community to receive continuing care services with lodging.

**The bill as amended was approved by the Senate Health Care Committee and the Senate Rules Committee and will next be considered by the Full Senate.**

HOUSE BILL 220, Insurance Technical Changes, was heard in the Senate Committee on Commerce and Insurance, where a committee substitute was approved. The new version included changes to the proposed “preferred benefit plan” that could be offered by insurers. The plan would:

- **remove the provision allowing a person enrolled in a preferred provider benefit plan to obtain covered health care services from a provider who does not participate in the plan;**
- **make the preferred provider benefit plan coverage limitations subject to coverage required for emergency care;**
- provide that if (1) a contract between an insurer and a health care provider offering an exclusive provider benefit plan is terminated by the provider or by the insurer, or benefits or coverage provided by the insurer are terminated because of a change in the terms of provider participation in an insurer's exclusive provider benefit plan and (2) an insured is undergoing treatment from the provider for an ongoing special condition on the date of termination, then: (1) the insurer must notify the insured of the termination and of the right to continuation of coverage of treatment by the provider and (2) the insurer must allow an insured to elect to continue to be covered with respect to the treatment by the terminated provider for the ongoing special condition during a transitional period;
- require each exclusive provider benefit plan offered by an insurer to provide transition coverage to individuals who (1) are newly covered under an exclusive provider benefit plan because the individual's employer has changed benefit plans and (2) are undergoing treatment from a provider for an ongoing special condition; and
- allow an insurer to condition coverage of continued treatment on six specified terms and conditions.

**The bill as amended was approved by the Senate Commerce and Insurance Committee and was then sent to the Senate Health Care Committee WHICH REMOVED ALL OF THE PROVISIONS OF THE PREFERRED PROVIDER BENEFIT PLAN. The bill will next be considered by the Senate Rules Committee.**

SENATE BILL 361, Health Care Expansion Act of 2019. This bill originally included a total repeal of the Certificate of Need (CON) laws and then was amended to provide some changes to CON, including exempting ambulatory care services, psychological services and others. The bill was heard by the full Senate, where all of the CON provisions were removed from the bill and the

sponsors shared that they would continue to work on the CON provisions. **The bill as amended on the Senate floor was approved and will next be considered by the House Health Committee.**

SENATE BILL 681, Rural Health Care Stabilization Act, was amended in the Senate Health Care Committee as follows:

- continues to require the establishment of the Rural Health Care Stabilization Program and the Rural Health Care Stabilization Fund;
- allow a public agency, an owner of a health care facility, or a partnership of one or more of these entities, to apply for a loan under the Program to benefit an eligible hospital;
- entitles an applicant disapproved by UNC Health Care to engage a disinterested and qualified third party approved by the Commission to evaluate the applicant's Plan to determine if the applicant demonstrates a financially sustainable health care service model for the community in which the eligible hospital is located, and to seek Commission approval of the loan.
- requires the Commission to approve loans under the Program before UNC Health Care's awarding the loan; and
- allows UNC Health Care to require changes to the governance structure of the eligible hospital prior to the receipt of the loan funds.

**The bill as amended was approved by the Full Senate and will next be considered by the House.**

### LEGISLATION ENACTED

HOUSE BILL 548, Modify Physical Therapy Definition, updates the definition of physical therapy to exclude the practice of chiropractic and include manipulation of the spine from therapies available without a physician's prescription. **Effective: October 1, 2019.**

HOUSE BILL 658, Allow Donations of Unexpired Drugs, modifies the expired drug provision of the Drug, Supplies, and Medical Device Repository Program to allow participating pharmacists to accept and dispense drugs that have not reached their expiration date for the purpose of increasing access for individuals who are uninsured or underinsured. **Effective: June 26, 2019.**

### BUDGET OVERVIEW

Included below is information on the \$24 billion budget passed by the House and Senate and vetoed by Governor Cooper. While this budget is unlikely to go into effect, it is useful to get a sense of where legislative leadership stands and the compromises that have been made. The budget includes a 2.5% average raise for most state employees in each of the next two years and a 0.5% one-time bonus for state retirees.

#### Health and Human Services

- Special Session: The budget included language calling for a special session to discuss Medicaid and access to health care which could include a wide variety of health care issues.
- Group Homes: The budget would provide \$1.8 million in non-recurring bridge funding for group homes in FY 2019-2020 and FY 2020-2021.
- Innovations Waiver Slots: Funding is provided for 1,000 additional slots in the Medicaid Innovations Waiver, which allows adults with intellectual and developmental disabilities

to get care and supports in their home or community rather than an institution. An additional \$5.4 million in FY 2019-2020 and \$16.3 million in FY 2020-2021 would fund the slots.

- DHHS Headquarters Move: \$244 million would be allocated to build a new administrative facility in Granville County for DHHS employees currently working at the Dix Park location in Raleigh.
- Vidant Deal: Medicaid reimbursements would be restored to Vidant Medical Center, and the budget would help fund a new East Carolina University medical school building. To access this funding, Vidant has to again allow the UNC Board of Governors to appoint members to the hospital board of trustees.
- Managed Care Tax: A new tax is created on managed care companies that will be running the state's Medicaid program. New hospital assessments are also created to replace the current assessments.
- Home and Community Care Block Grant (HCCBG): Increased funding for HCCBG, which provides funding for in-home and community-based services for older adults, would allow an estimated 1,500 additional seniors to access services in FY 2019-2020 and 2,725 in FY 2020-2021. Funding would include \$2.3 million recurring and \$1.3 million non-recurring net General Fund appropriation in FY 2019-20 and \$4.8 million recurring and \$1 million non-recurring net General Fund appropriation in FY 2020-21.
- Personal Needs Allowance: The budget would increase the personal needs allowance for those living in adult care and group homes to \$70 per month.
- Pregnancy Crisis Centers: \$2.64 million would be provided to crisis pregnancy centers, which counsel women against having abortions, including individual grants between \$15,000 and \$100,000 to nine facilities across the state.
- DHHS Administrative Costs: DHHS would be required to reduce administrative costs across the Department by \$30.7 million in FY 2019-2020 and by \$42.7 million in FY 2020-21 as the State transitions some of its administrative functions to prepaid health plans in managed care. Some of these cuts are made up in non-recurring transfers from the Medicaid Transformation Fund.
- **Telehealth Pilot: \$500,000 in nonrecurring funds for FY 2019-2020 would be allocated to Southeastern Regional Medical Center to develop and administer a telehealth pilot program. The purpose of the pilot program is to purchase telehealth infrastructure and equipment that will enable Southeastern to establish telehealth services with health care providers in Bladen County, Columbus County, Robeson County, and Scotland County. The pilot program expires on December 31, 2020, unless otherwise extended by law.**
- ICF/IID Group Homes: \$5,495,000 in recurring funds for FY 2019-2020 and \$10,995,000 in recurring funds for FY 2020-2021 would be used to adjust the per member per month (PMPM) capitation amount paid to LME/MCOs to increase wages paid to direct support personnel working in community-based Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) group homes for individuals with intellectual and other developmental disabilities to align the wages paid to these direct support personnel with the current wages paid to State employees in State-owned developmental centers. Adjustments to the PMPM capitation amount paid would be implemented no sooner than January 1, 2020.
- Reduce Administrative Duplication: The DHHS would establish a workgroup to examine current administrative requirements for mental health, intellectual/developmental disability, and substance use disorder providers and how best to integrate these requirements with similar administrative requirements for physical health providers in order to avoid duplication and enhance efficiency. The workgroup would consist of

representatives from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the Division of Health Benefits, the Division of Health Service Regulation, local management entity/managed care organizations, providers, and stakeholders.

- State Office of Child Fatality Prevention: The State Office of Child Fatality Prevention would be established within the Department of Health and Human Services, Division of Public Health, to serve as the lead agency for child fatality prevention in North Carolina.

## Education

- Increases funding to the Instructional Support Allotment, with the intent to be used by LEAs to hire additional school mental health support personnel: school psychologists, school counselors, school nurses, school social workers (\$20 million in FY 2019-20 and \$23 million in FY 2020-21).

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